

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELSEVIER INC., ELSEVIER B.V., ELSEVIER
LTD.

Plaintiffs,

v.

SCI-HUB d/b/a WWW.SCI-HUB.ORG, THE
LIBRARY GENESIS PROJECT d/b/a
LIBGEN.ORG, ALEXANDRA ELBAKYAN,
JOHN DOES 1-99,

Defendants.

Index No. 15-cv-4282 (RWS)

**APPLICATION FOR LEAVE TO
TAKE EXPEDITED DISCOVERY**

Plaintiffs Elsevier Inc, Elsevier B.V., and Elsevier Ltd. (collectively “Elsevier”), by their attorneys DeVore & DeMarco LLP, pursuant to Federal Rules of Civil Procedure 26 and 45, the Declarations of Joseph V. DeMarco and Paul F. Doda, and the authorities cited in the supporting Memorandum of Law, hereby apply for an Order permitting Elsevier to take expedited discovery.

In support thereof, Elsevier represents as follows:

1. Elsevier, a publisher who owns the copyrights to certain academic journals and operates the proprietary Internet-based subscription database “ScienceDirect,” through which authorized users may access such academic journals, seeks leave of Court to serve limited, immediate discovery on a third party service provider to determine the true identities of the Doe Defendants, who are being sued for copyright infringement and violations of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030.

2. As alleged in the Complaint, the Doe Defendants, without authorization, operate several websites through which they distribute Elsevier's copyrighted works. In addition, also as alleged in the Complaint, the Doe Defendants obtain copies of Elsevier's copyrighted works by, without authorization, accessing ScienceDirect and using such access to download those works therefrom.

3. Elsevier does not know the true names of the Doe Defendants because the Doe Defendants registered the domain names for the websites they use to distribute Elsevier's copyrighted works using third-party anonymization services.

4. Elsevier intends to serve Rule 45 subpoenas on CloudFlare, Inc., a third-party service provider whose services the Doe Defendants have used to mask the location of the computer servers upon which their websites are hosted. Specifically, Elsevier seeks, through Rule 45 subpoenas, documents that identify, among other things, the IP address of such computer servers and any identifying information the Doe Defendants provided to CloudFlare in the course of their use of CloudFlare's services. Without this information, Elsevier cannot identify the Doe Defendants or pursue its lawsuit to protect its copyrighted works from repeated infringement.

5. Good cause exists to allow Elsevier to conduct this limited discovery in advance of a Rule 26(f) conference where the Defendants are unknown and are therefore unavailable for such a conference.

WHEREFORE, Plaintiff applies for an Order permitting Elsevier to conduct the foregoing discovery on an expedited basis.

Dated: New York, New York
September 14, 2016

Respectfully submitted,

DEVORE & DEMARCO LLP

By: /s/ Joseph V. DeMarco
Joseph V. DeMarco (JD3499)
David M. Hirschberg
Urvashi Sen
99 Park Avenue – Suite 1100
New York, New York 10016
(212) 922-9499

*Attorneys for Plaintiff Elsevier Inc.,
Elsevier B.V., and Elsevier Ltd.*